STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	)	
	)	
Petition for approval of delivery services tariff revisions	)	Docket No. 01-0423
and of residential delivery services implementation plan,	)	
and for approval of certain other amendments and additions	)	
to its rates, terms, and conditions.	)	

DRAFT ORDER OF

TRIZECHAHN OFFICE PROPERTIES INC.

Now comes TRIZECHAHN OFFICE PROPERTIES INC., by its attorneys GIORDANO & NEILAN, LTD., and hereby files its Draft Order in this proceeding pursuant to Section 200.810 of the Rules of Practice of the Illinois Commerce Commission ("Commission"). In this Draft Order, TrizecHahn Office Properties Inc. ("TrizecHahn") will address the issue of Rider HVDS–High Voltage Delivery Services ("Rider HVDS or "HVDS") proposed by Commonwealth Edison Company ("ComEd" or "the Company"). TrizecHahn urges the Commission to address the Rider HVDS issue in the manner set out in this Draft Order and also grant the other relief requested by TrizecHahn in the conclusion of TrizecHahn's Initial Brief in this proceeding. (TrizecHahn Initial Brief at 24-25).

By the Commission:

II. G. 2. Rate HVDS

Company Proposal

ComEd has proposed a new Rider HVDS-High Voltage Delivery services ("Rider HVDS" or "HVDS") for delivery services customers served at 69,000 volts and above. Currently, ComEd's Rider 11-Service at 69,000 Volts or Higher ("Rider 11") provides a credit of 10.138¢/kW on demand charges for ComEd's delivery services as well as its bundled services customers. Under ComEd's Rider HVDS initially proposed in this case, the credit on demand (i.e., distribution facilities) charges for delivery services customers would be increased from 10.138¢ to $2.65/kW (based on annually ratcheted demand charges). If distribution facilities charges are unratcheted, ComEd's proposed rider HVDS would have increased the credit for delivery services customers served at 69,000 volts ("69 kV") and above to $3.54/kW. In the Panel Surrebuttal Testimony of Lawrence Alongi and Sharon Kelly, ComEd revised its calculation of the proposed HVDS credit to reflect the elimination of a customer that has permanently ceased its operations from ComEd's basis for calculation of the credit. After this revision, ComEd's proposed HVDS credit for delivery service customers is $1.69/kW (based on an annual demand ratchet) and $2.27/kW (based on unratcheted demand charges). Under ComEd's proposal, Rider 11 would be revised so that it would no longer apply to ComEd's delivery services customers but would still provide a credit on the (unratcheted) demand charges of 10.138¢/kW to ComEd's bundled services customers.

a. Eligibility

Company Position

The Company has proposed that its proposed Rider HVDS credit of $1.69/kW (ratcheted) or $2.27/kW (unratcheted) be given to all customers served at 69 kV or higher. The eligibility provision of ComEd's proposed Rider HVDS reads as follows:

> For a nonresidential retail customer taking service under Rate RCDS – Retail Customer Delivery Services (Rate RCDS) for which the applicable Distribution Facilities Charge is provided on a dollar per kilowatt ($/kW) basis and for which the Company line(s) enters the customer's premises at a voltage of 69,000 or higher, such customer shall be allowed a credit per kilowatt on that portion of the demand used for billing each month under Rate RCDS which is served from the line(s) entering the property at 69,000 volts or higher.

Staff's Position

Staff witness Michael Luth agreed with the concept of reduced rates for high-voltage customers, but proposed a high-voltage rate rather than a credit. Staff witness Luth calculated this high voltage rate using an embedded cost of service study, unratcheted demand billing units, and Staff's proposed revenue requirement. It was Mr. Luth's position that a single high-voltage rate was simpler for a customer than having a standard class distribution facilities charge reduced by the HVDS credit. Staff notes that those eligible for ComEd's proposed Rider HVDS credit would enjoy considerably lower delivery service rates, while those not eligible for Rider HVDS would incur significantly increased delivery service rates because they would be required to cover the class revenue requirement not paid as a result of the increased credit to high voltage delivery services customers. Staff believes that the increase in the distribution facilities charge resulting from the credit can be considered to have an anti-competitive effect upon the development of an active, vibrant energy market.

TrizecHahn Position

TrizecHahn's position is that the language of ComEd's proposed rider HVDS unambiguously makes customers eligible for the credit if "the Company line(s) enters the customer's premises at a voltage of 69,000 or higher." TrizecHahn points out that it is undisputed in the record and acknowledged by ComEd that ComEd's lines do enter the Sears Tower, which is owned and managed by TrizecHahn, at more than 69 kV. ComEd takes the position, however, that the Sears Tower is ineligible for the credit on the grounds that the substation within the Sears Tower, which is fed by ComEd's lines, is not within the premises of the Sears Tower. ComEd bases its position on its testimony that ComEd is leasing the plot of land on which the substation rests. TrizecHahn contends that ComEd's argument is fallacious because the substation is within the Sears Tower and even though ComEd may have a lease for its space, the substation is still of course on the premises of the Sears Tower. TrizecHahn notes that ComEd's interpretation of the eligibility provision of its tariff is nevertheless of great significance to TrizecHahn and other similarly situated customers because ComEd is the body that interprets its own tariff in the first instance. TrizecHahn contends that ComEd's restricted interpretation of its own tariff is one of several reasons that the Commission should reject ComEd's massive proposed HVDS credit.

ARES Coalition Position

The ARES Coalition criticizes ComEd's proposed Rider HVDS on that the grounds that ComEd has proposed a voltage related rate but has not proposed a reasonably complete set of rates based upon voltage levels, thus rendering its proposal an unfair half-measure. The ARES Coalition contends that establishing a simple voltage-based rate is arbitrary and not in accord with the requirements of the Public Utilities Act, citing sections 16-108(c) and (d) of the Act.

(220 ILCS5/16-108(c), (d)). The ARES Coalition maintains that ComEd's proposed rider HVDS appears to be consistent with ComEd's approach in the instant proceeding of proposing changes that would have a negative impact upon customers that have exercised choice and to stymie areas in which competition has begun to develop. The ARES Coalition requests that the Commission reject the proposed Rider HVDS and direct ComEd to prepare a current analysis of customers based on voltage levels and the associated cost to serve, which study should be included in the 2005 rate case.

IIEC Position

IIEC argues for the expansion of ComEd's proposed HVDS credit to customers taking service at 34.5 kV and above. Furthermore, IIEC proposes that any HVDS credits be phased-in with ComEd granting half the full credit for the first two years, with the full credit being implemented at the beginning of the third year, that is, two years after the new rates take effect. IIEC points out that this change in the credit levels requires that distribution facilities charges be adjusted in order to reach their final approved levels in two steps and would therefore be revenue neutral to ComEd.

DOE Position

DOE supports ComEd's proposed HVDS credit and has no objection in principle to extending a smaller credit to 34.5 kV customers if the Commission determines that the difference in the cost of serving customers at and below 34.5 kV is great enough to warrant differential treatment. At the same time, however, if the Commission decides that it wishes to see additional evidence on this issue and so intends to defer the decision regarding 34.5 kV customers, DOE urges the Commission not to also defer judgment on the appropriateness of a discount to delivery services customers services at and above 69 kV. DOE witness Dr. Dale Swan indicated, however, that the best way to address the concerns of those customers who basically do not use the distribution system at all (such as DOE and Midwest Generation) is to exempt them totally from distribution facilities charges and assess them special facilities charges based on their very limited (i.e., "last inch") use of the distribution system. (Tr. at 2744). DOE witness Swan testified that if DOE facilities Argonne and Fermi Lab were asked to pay for the cost of last-inch facilities on the basis of special facilities charges, while at the same time the Commission concluded that the Company's HVDS credit were no longer appropriate, Argonne and Fermi Lab and a few of the customers like Argonne and Fermi Lab would be treated in a fair and equitable manner. (Tr. at 2745).

Midwest Generation Position

Midwest Generation supports the proposed Rider HVDS consistent with the testimony presented on behalf of DOE by Dr. Dale Swan.

b. Calculation of Credit

Company Position

ComEd states that it determined its credit using a marginal cost-based methodology reflecting the differences in the costs to provide standard distribution facilities to customers served at a voltage of 69,000 volts or higher compared to the costs to provide standard distribution facilities to customers served at lower voltage levels. In surrebuttal testimony, ComEd recalculated the credit to reflect the fact that its largest customer had permanently ceased operations and therefore should not be reflected in the calculations. After this revision, ComEd's proposed HVDS credit is $1.69/kW (based on ratcheted demands) and $2.27/kW (based on ratcheted demands). Based on ComEd's embedded cost study, ComEd has calculated an HVDS credit of $3.54/kW (based on unratcheted demands) compared to the $2.27/kW (based on unratcheted demands) calculated by ComEd in its surrebuttal testimony using the marginal cost-based methodology. ComEd did not revise its calculation of the HVDS credit based on the embedded cost study to reflect the fact that its largest customer had permanently ceased operations. Although ComEd has taken the position that it generally will accept a rate design based on its embedded cost of service study, ComEd has stated that an HVDS credit based on its embedded cost study is not acceptable to ComEd. (Tr. at 3289).

Staff Position

Staff contends that ComEd's greater than one-third reduction in ComEd's proposed Rider HVDS credit resulting from the loss of one customer calls into question how cost-based the proposed credit is. Staff's position is that while the customer was significant, the loss of that customer does not change the cost to serve each of the other 69 kV and above customers. Staff noted that the effects on the embedded cost of service study from the elimination of the customer were not disclosed by the Company. Staff also noted that ComEd's determination of the cost to serve 69 kV and above customers, as determined by ComEd in its marginal cost of service study, ranges from $61.17 per kW of demand to $837.04 per kW, which is a range with a multiple of 13. Due to that range of cost to serve high-voltage customers, combined with the potential adverse competitive effects of a proposed credit that is more than fifteen (15) times larger than the credit that is currently in effect, Staff concluded that full implementation of ComEd's proposed Rider HVDS is inappropriate. Instead, given the questionable cost-basis for ComEd's rider HVDS and the potential adverse effects on the developing ARES market caused by other delivery services customers being required to pay for a substantially increased credit, Staff supports the phase-in of Rider HVDS proposed by IIEC.

BOMA Position

BOMA takes the position that ComEd's proposed HVDS credit would create rate shock for non-qualifying customers. BOMA witness Sheree Brown testified that ComEd overstated severely the differences in costs between customers served at 69 kV and above and those who are served below 69 kV by allocating Transmission Distribution Centers ("TDCs") in its marginal cost study based on coincident peak demands and then inconsistently assuming that the TDC costs per kW were applied to the customers' maximum demands, rather than their coincident demands, in calculating the cost to serve 69 kV and above customers and those below the watermark. When Ms. Brown corrected this error, the HVDS credit based on unratcheted demands was reduced from $2.27/kW to $1.53/kW.

TrizecHahn Position

TrizecHahn takes the position that there are five independent reasons why ComEd's proposed Rider HVDS is not cost-based. One of these reasons is the testimony of BOMA witness Sheree Brown discussed above. The other four reasons cited by TrizecHahn are as follows.

First, TrizecHahn points out that ComEd's marginal cost study itself is flawed because it is a calculation of replacement costs rather than marginal costs. (IIEC Revised Exhibit 2 at 14-20). Since ComEd's marginal cost study is a flawed study, it is TrizecHahn's position that it should not be used to support the radical change in the high voltage credit for delivery services customers proposed by ComEd in this case.

Second, as TrizecHahn witness Larry Haynes testified, TrizecHahn contends that ComEd's approach is inconsistent hybrid of size (i.e., peak demand)-based and voltage-based ratemaking. (TrizecHahn Exhibit 2.0 at 8, ln. 169-70). According to TrizecHahn, the reasons for rejecting such an approach were perhaps best summarized by ComEd witness Paul Crumrine in his testimony in ComEd's last delivery services case:

> Bundled service Rider 11 provides a credit [of 10.138¢] to customers that are served at 69 kV voltage or higher. Rider 11 is also applicable to delivery services customers. Thus, ComEd's bundled service and delivery service customer classes based on size account for major differences in voltage levels among the customer classes with a special credit being given for customers served at high voltage….

(TrizecHahn Cross Exhibit 11.0 at 5, ln. 94-99).

Third, there are many customers served at or above 69 kV who actually have a higher cost of service than those served below 69 kV according to ComEd's own cost analysis. This is demonstrated by scatter diagrams presented by ComEd's own witnesses submitted in support of the credit which show that the cost of serving customers at or above 69 kV varies from under \$100/kW to over \$800/kW and the cost of serving customers below 69 kV varies from under \$200/kW to over \$1,000/kW. (ComEd Exhibit 13.0, Attachment N pages 2 and 3). TrizecHahn points out that ComEd witness Arlene Juracek admitted on cross-examination that there is no discernible pattern to the scatter diagram showing marginal distribution investment for below 69 kV customers which ComEd presented in support of its calculation of the HVDS credit. (Tr. at 3322).

According to TrizecHahn, the fourth independent reason that ComEd's proposed Rider HVDS credit is not cost-based is that approval of the massive HVDS credit would work against ComEd's own stated goal of providing electricity service at the lowest possible cost. TrizecHahn notes that ComEd witness Paul Crumrine testified in ComEd's last delivery services case and under cross-examination in this case that "when providing service to customers, ComEd will use the appropriate voltage level that meets the customer's need at the lowest cost." (TrizecHahn

Cross Exhibit 11.0 at 5, ln. 103-04; Tr. at 1091). This means that two customers with similar electrical needs may be served at 138 kV, from one or more 34 kV lines or even from multiple 12 kV feeders. (TrizecHahn Cross Exhibit 11.0 at 5, ln. 105-06; Tr. at 1091-92). According to Mr. Crumrine: "The deciding feature is which voltage level is most cost effective to use for a given customer's situation." (TrizecHahn Cross Exhibit 11.0 at 5, ln. 106-107; Tr. at 1092). Nevertheless, two customers with similar electrical needs will receive drastically different delivery charges if ComEd's proposed HVDS credit is approved (i.e., because one will receive the huge HVDS credit and the other will not) merely because of ComEd's decision on which is the most cost-effective way to serve the customer. According to TrizecHahn, this not only is inequitable but also could cause ComEd to determine the voltage level at which to serve its customers based on the revenues generated for ComEd rather than a least-cost approach.

DOE Position

DOE takes the position that ComEd has correctly calculated the HVDS credit based on the rebuttal testimony of DOE witness Dr. Swan. DOE opposes the phase-in of the HVDS credit on the grounds that high voltage customers should not be required to subsidize high voltage customers for another two years. DOE argues that there is no need to phase-in the HVDS credit because the adverse impacts of the credit are felt by large businesses rather than residential customers.

IIEC Position

IIEC calculates the HVDS credit for 34.5 kV customers as well as 69 kV customers. IIEC utilizes the same data to derive its recommended HVDS credits as ComEd. These data are the actual replacement facilities for customers with demands of 3 MWs or more grouped by voltage level. According to IIEC, the difference between its calculation and ComEd's is that

IIEC directly utilizes the relation between average replacement costs at the various voltage levels, while ComEd employed a marginal cost approach. IIEC's method results in a credit for 69 kV service of $2.44/kW with ratcheted demands and $3.06/kW using unratcheted demands. IIEC's calculation of credits for service at 34.5 kV results in credits of $1.77/kW using ratcheted demands and $2.22/kW using unratcheted demands.

IIEC notes that there is a tremendous difference in ComEd's proposed delivery service rate increases dependent upon whether the customer is eligible for the Rider HVDS credit. As demonstrated by IIEC witness Robert Stephens, a 20 MW customer taking delivery service below 69 kV, as compared to that same customer taking delivery service above 69 kV, will be subject to a swing in delivery service rates of over 130%. IIEC points out that under the ComEd proposal 45 of ComEd's over 3 MW customers would be eligible for the credit while 420 of ComEd's over 3 MW customers would not be eligible for the credit. In order to mitigate the concerns of a significant rate increase, IIEC recommends that any Rider HVDS credit be applied on a phased-in basis.

c. Allocation of Costs to Other Classes

Company Position

ComEd allocated all revenue requirement lost as a result of the 69 kV credit to the other customers in a particular class who were ineligible for the credit. ComEd's position is that this approach is in accordance with cost causation and appropriately revenue neutral. ComEd also contends that non-HVDS customers do not experience rate shock because rate increases are offset by reductions in Customer Transition Charges ("CTCs").

Staff Position

Staff points out that several parties to this docket would be affected by an increase in the HVDS credit. Some parties would enjoy considerably lower delivery service rates, while others would incur significantly increased delivery service rates because customers not qualifying for the credit would be required to cover the class revenue requirement not paid as a result of the increased credit. Staff notes that while the Company has explained that an increased delivery service rate will result in a reduced CTC, the reduction in the CTC is capped to the amount the CTC becomes zero and therefore there is not necessarily a dollar-for-dollar trade-off between increased delivery service rates and a reduced CTC. As discussed above, Staff supports the phase-in of the HVDS credit proposed by IIEC.

TrizecHahn Position

TrizecHahn contends that the proposed rider HVDS credit would cause rate shock and rate discontinuity. For example, approval of ComEd's proposed HVDS credit of $2.27/kW (unratcheted) would mean that the thirty-one over 10 MW customers currently on delivery services who are ineligible for the credit would have an increase in their distribution facilities charge of 82% (from the current $1.92/kW to $3.50/kW) while the nine over 10 MW customers currently on delivery service who are eligible for the HVDS credit get a decrease in their distribution facilities charges from $1.92/kW to $1.23/kW. TrizecHahn points out that the analysis presented by ComEd's rate design witnesses Lawrence Alongi and Sharon Kelly shows that large (i.e., over 800 kW) customers, who have been much more likely to take advantage of delivery services, would not have CTC offsets and therefore would pay the entire increase in delivery service charges granted by the Commission. To avoid a rate structure which favors those customers that are not currently taking delivery service over those customers that are taking such service, TrizecHahn urges the Commission to reject ComEd's proposed major changes to its rate design and instead adopt an across-the-board revenue allocation that has an equal percentage increase on all eligible delivery service customers.

ARES Coalition Position

The ARES Coalition presented customer impact studies which they contend are a demonstration that approval of Rider HVDS (and the corresponding shifting of costs to customers taking service below 69 kV) has an adverse impact on most customers currently exercising choice as well as those who may wish to consider doing so. Moreover, the ARES Coalition points out that there has been no demonstration by ComEd that failure to adopt Rider HVDS will have an adverse impact upon customers taking service above 69 kV from exercising customer choice.

d. Exemption from Rate RCDS Facility Charges

Company Position

ComEd initially took the position in this case that none of its customers should be exempted from Rate RCDS facility charges on the grounds that ComEd's Rate RCDS is applicable to, and designed to recover the costs of, delivery services provided to customers at all voltages. However, ComEd has now responded favorably to the request of DOE in its Initial Brief that the sole 345 kV load customer on ComEd's system (i.e., Fermi Lab) not be charged under rate RCDS and instead be charged special facilities charges to recover the carrying cost of the "last inch" pieces of distribution equipment that have been installed to serve these customers. This would be handled in a manner similar to that which ComEd currently uses under its Rider 6-Optional Facilities. ComEd also has now proposed that Midwest Generation's fossil fuel generating plants be treated in this same manner.

DOE Position

DOE takes the position that the HVDS credit as proposed by the Company based on marginal costs, in conjunction with the Rider 8 credit, goes a long way toward reducing the subsidy that was paid for by high voltage customers like DOE's Fermi Lab and Argonne. DOE states that the HVDS credit will not be acceptable to DOE, however, if the magnitude of the HVDS credit is reduced as some sort of phase-in, or if the net distribution facilities charge, after application of the credit, increases significantly because the Commission decides to base rates on some version of an embedded cost of service study. If either of these circumstances occur, DOE strongly urges the Commission to adopt Dr. Swan's recommendation that the few high voltage customers that do not actually use the distribution system be required to pay special facilities charges based on their limited use of the distribution system rather than Rate RCDS charges.

e. Adoption Prior to Bundled Rate Change

Company Position

ComEd contends that IIEC's proposal to phase in the HVDS credit and the proposals of various parties to postpone the introduction of the HVDS credit until ComEd's bundled rates contain a parallel credit are unwarranted. ComEd justifies its position by citing the grounds for the credit, its correct calculation, and the lack of any valid objections especially in light of the materially smaller size of the revised credit as calculated in ComEd's surrebuttal and the resulting significantly reduced impact on customers not eligible for the credit. ComEd contends that Section 16-108(c) of the Act entitles ComEd to delivery services charges that are "cost-based" and that there is no valid legal or factual ground for deviating from section 16-108(c)'s mandate based on the theory that ComEd's bundled rates do not contain the same HVDS credit and instead contain the existing smaller high voltage credit.

TrizecHahn Position

TrizecHahn contends that it is absolutely critical that ComEd's proposed Rider HVDS credit not be adopted prior to ComEd making a similar proposed change in its bundled tariffs. Although ComEd cites the materially smaller size of the credit proposed by ComEd in its surrebuttal testimony, the fact is that this "smaller" credit of $2.27/kW (unratcheted) still results in an 82% proposed hike in distribution facilities charges for the Sears Tower and other similarly situated customers. TrizecHahn argues that this grossly disproportionate rate for ineligible customers clearly causes rate shock and rate discontinuity, which is a strong basis for rejecting ComEd's proposed HVDS credit in light of the fact that the Commission must consider customer impacts in establishing delivery services rates under Section 16-108(d) of the Act. TrizecHahn also contends the cost basis for Rider HVDS is way too shaky to justify its adoption prior to a corresponding change in ComEd's bundled tariffs. Moreover, TrizecHahn argues that approval of Rider HVDS at this time would violate the provision of Section 16-108(c) of the Act that delivery services not be priced in a manner that discriminates against a customer's choice of an entity other than ComEd as its electricity supplier. (220 ILCS 5/16-108(c)). TrizecHahn urges the Commission to reject ComEd's proposed Rider HVDS and order ComEd to keep its current Rider 11 high voltage credit of 10.138¢/kW applicable to both ComEd's bundled service and delivery service customers.

BOMA Position

BOMA contends that delay in implementation of the HVDS credit until changes are made in bundled tariffs would alleviate the anticompetitive effects of Rider HVDS. BOMA further states that if the Commission is compelled to implement an HVDS credit, BOMA submits that only over 10 MW customers should get the increased credit and that the credit for these customers be the credit as calculated by BOMA witness Sheree Brown and phased-in as recommended by IIEC.

ARES Coalition Position

The ARES Coalition takes the position that the voltage level discounts under ComEd's proposed Rider HVDS would cause a needless imbalance and lack of comparability between bundled services and delivery services. The ARES Coalition contends that ComEd's proposal would negate much of the work and investment customers, the Commission and ARES have made toward establishing a competitive retail electric market in Illinois. The ARES Coalition suggests that addressing the applicability of voltage-based rates to bundled service customers as well as to delivery services customers in the 2005 rate case would be an appropriate compromise.

Commission Conclusion

Currently, customers who take delivery service at 69 kV or higher are eligible for ComEd's Rider 11, which provides a credit of 10.138¢/kW on ComEd's demand charges for both delivery services and bundled services customers. In this case, however, ComEd proposed a Rider HVDS – High Voltage Delivery Services ("Rider HVDS" or "HVDS") that initially called for a $2.65/kW credit based on an annual demand ratchet. While ComEd has reduced the requested credit somewhat in their surrebuttal testimony, it is still $1.69/kW based on an annual demand ratchet and $2.27/kW based on unratcheted demands, clearly massive increases from the current credit of 10.138¢/kW which is now applicable to both delivery services and bundled services customers and would still be applicable to ComEd's bundled services customers under ComEd's proposal.

The Commission is of the opinion and concludes that ComEd has designed its HVDS credit in a manner that is highly discriminatory to over 10 MW customers who are ineligible for the credit. ComEd's proposed design forces these over 10 MW customers to shoulder the burden of the revenues lost to ComEd as a result of a massive HVDS credit, resulting in an eighty-two percent (82%) increase in unratcheted distribution facilities charges (from $1.92/kW to $3.50/kW) for over 10 MW customers. On the other hand, these customers are not required to offset a large high voltage credit under ComEd's proposal if they purchase electricity supply (and delivery) form ComEd pursuant to its bundled tariffs. The Commission is of the opinion and concludes that adoption of ComEd's approach would be highly anticompetitive, cause rate shock, and disrupt rate continuity. The Commission is also of the opinion that Rider HVDS violates the nondiscrimination provision of Section 9-241 of the Act and the provision of Section 16-108(c) of the Act requiring that delivery services be priced on a non-discriminatory basis regarding whether the customer chooses the electric utility or an alternative entity as its electric supplier.

Unless and until ComEd is ready to either propose the same changes in its bundled tariffs for high voltage customers that it proposes in its delivery services tariffs or propose a voltage-based system for all of its customers which has all classes based on voltage levels, the Commission orders ComEd to continue to utilize the same size-based ratemaking approach now used in its bundled and delivery services tariffs (with a consistent credit for service at or above 69 kV of 10.138¢/kW for delivery and bundled service). This approach is far preferable to ComEd's discriminatory, anticompetitive and restrictive method proposed here which results in huge "winners" and "losers" based on whether a customer is above or below one particular voltage level and whether the customer is on delivery or bundled service. Moreover, the Commission concludes that the cost bases for Rider HVDS presented by ComEd are far too inadequate to justify adoption of Rider HVDS prior to ComEd proposing a corresponding change in its bundled tariffs.

The only two parties that support the HVDS credit as proposed by ComEd are DOE and Midwest Generation. As DOE witness Dr. Dale Swan indicated, however, the best way to address the concerns of these customers who basically do not use the distribution system at all is to exempt them totally from distribution facilities charges and assess them special facilities charges based on their very limited use of the distribution system. (Tr. at 2744; See also DOE Exhibit 1.0 at 10-18 ln. 200-369). In fact, ComEd has already proposed such an approach for Midwest Generation and DOE's Fermi Lab. Moreover, DOE witness Swan has acknowledged that a high voltage credit would be irrelevant to DOE's facilities if the special facilities charge preferred by DOE is adopted. (Tr. at 2745). The Commission is of the opinion and concludes that ComEd's proposed crude method of dramatically rewarding all customers at or above 69 kV and drastically penalizing all customers below that level is not the way to address the issues faced by the massive facilities of DOE and Midwest Generation. The Commission rejects ComEd's proposed Rider HVDS and approves the special facilities charges for DOE and Midwest Generation which have been proposed by ComEd for their facilities.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

(x) ComEd's proposed Rider HVDS is rejected;

(y) ComEd's proposed changes to its current Rider 11 are rejected;

(z) ComEd should exempt Midwest Generation's fossil fuel plants and DOE's Fermi Lab from Rate RCDS and charge them special facilities charges to recover the carrying cost of the pieces of distribution equipment that have been installed to serve these facilities.

By Order of the Commission this ____ day of ____________, 2002.

Chairman